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PATENT**REMARKS**

Applicants thank the Examiner for the courtesy of a telephone interview on December 15, 2005. During the interview, Applicants' representative James J. Barta, Jr. discussed the patentability of the claims including claim 1 in view of the cited references U.S. Pat. No. 5,720,502 (Cain) and U.S. Pat. No. 6,314,405 (Richardson) with Supervisory Patent Examiner Kincaid and Examiner Muhebbullah. No agreement was reached, no exhibit was shown, and no demonstration was conducted.

Applicants have thoroughly considered the Examiner's remarks in the Office action dated September 21, 2005. Claims 1-20 and 22-31 are presented in the application for examination. Claims 1, 15, 20, 29 and 31 have been amended by this Amendment C. Reconsideration of the application claims as amended and in view of the following remarks is respectfully requested. Additionally, Applicants request that the Examiner have the drawings reviewed and formally approved. Applicants submit that the recited invention is distinguishable over the cited art, particularly considering the claim amendments.

**Claim Rejections Under 35 U.S.C. 103**

The Examiner rejected claims 1-8, 14-20, 22, 23, and 28-31 under 35 U.S.C. 103(ii) as being unpatentable over Cain (U.S. Pat. No. 5,720,502) in view of Richardson (U.S. Pat. No. 6,314,405). Cain discloses a patient pain communication apparatus to communicate pain sources, pain locations, and pain intensity from a patient to a health care provider (*See* col. 2, lines 43-47). In particular, Cain teaches icons placed on silhouettes "in particular locations to indicate pain location" (*See* col. 3, lines 44-47, emphasis added). That is, the location of each icon is specific to the pain location of the patient.

Richardson discloses an electronic medical log for recording the condition and location of a patient's ailments (*See* Abstract). In particular, "the bodily location where the patient is experiencing discomfort is then entered into the medical log by selecting one of the second set of icons" (*See* col. 1, lines 57-59). The system "displays the entered condition, body part, and

location on the display" (See col. 4, lines 46-47). As in the Cain system, the location of each icon in the Richardson system is specific to the pain location of the patient.

On page 3 of the Office action, the Examiner states Richardson allows the icon to be placed by the user, and that the user may place the icon anywhere. (Richardson, col. 4, lines 34-47). However, the MPEP states that "a prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention". (MPEP rev. 3 August 2005, Chapter 2141.02, VI) When considered in its entirety as required by the MPEP, Richardson teaches that icons are associated with the bodily location where the patient is experiencing discomfort. (See col. 1, lines 57-59). Richardson teaches that icons are associated with a bodily location only when the condition requires a location. (See Fig. 2, 12b; col. 4, lines 34-45) Consistent with this teaching, Richardson does not associate the icon with the image of the body when the condition does not require a bodily location. (See Fig. 2, 12c; col. 4 lines 61 – col. 5 line 45) Therefore, when considered in its entirety, Richardson teaches that an icon is associated with a bodily location only when the condition represented by the icon requires such a location.

In contrast, the present invention relates icons in a fixed image to a **predetermined position that is independent of the location, on the body of the patient, associated with the identified condition of the patient.** This is completely different from the systems taught by Cain and Richardson. Upon receiving information that identifies certain conditions of the patient, the present invention includes selecting icons corresponding to the identified conditions. The selected icons are displayed at the respective predetermined positions in the fixed image. The location of a particular icon in the present invention is the same across all fixed images, even for different patients, while the selection of icons and resulting fixed images are specific to the conditions of each patient. **While the selection of the icons is specific to the conditions of the patient, the predetermined position of each selected icon on the fixed image is independent of the location, on the body of the patient, associated with the identified condition of the patient.**

The systems of Cain and Richardson do not teach, imply, or suggest a universal position for each of the icons. In fact, the systems of Cain and Richardson teach away from the present

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invention by indicating that the location of each icon may vary depending on the pain location specific to each patient. As such, Applicants assert that independent claims 1, 15, 20, and 29 are clearly distinguishable over Cain and Richardson and are therefore allowable. Applicants submit that the rejection to independent claims 1, 15, 20, and 29 and the claims that depend from these independent claims should be withdrawn.

With respect to claim 29, the claim has been amended to recite "selecting a first icon and a second icon from the plurality of icons, each of said first icon and said second icon corresponding to at least one of the identified conditions of the patient" such that "the predetermined position related to the first icon in the fixed image is independent of the location, on the body of the patient, associated with the identified condition of the patient corresponding to the first icon, and the wherein the predetermined position related to the second icon in the fixed image indicates the location, on the body of the patient, associated with the identified condition of the patient corresponding to the second icon".

In contrast, for the reasons stated above, Cain and Richardson teach that the location of each icon is specific to the pain location of the patient. They do not disclose a system where at least two conditions of the patient have been identified and at least one of the icons is independent of the location on the body of a patient of the first condition and at least another one of icons indicates the location on the body of the patient of the second condition. As such, Applicants assert that independent claim 29 is distinguishable over Cain and Richardson and is therefore allowable. Applicants submit that the rejection to independent claim 29 and the claims that depend from this independent claim should be withdrawn.

With respect to claim 31, Richardson and Cain do not teach that the image "confidentially communicate by displaying information regarding the at least one of the identified conditions of the patient to a person with knowledge of the relationship between each of the plurality of icons and the predetermined position" as recited by amended claim 31. Cain teaches that pain intensity is color coded and that a guide to the codes is located on the chart. (See Fig. 2, col. 3, lines 47-48) Additionally, pain sources are also identified on the chart. (See Fig. 2, col. 3, lines 39-41) Finally, as described above, the icons are placed on the body at the location of the condition. (See col. 3, lines 44-47) Thus, persons other than those with

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knowledge of the relationship between each of the plurality of icons and the predetermined position, like visitors, can look up the code on the chart and determine the patient's condition and the location on the body of that condition. Similarly, Richardson provides labels for all icons. (See. Fig. 2) Thus, Richardson and Cain do not teach that the image "confidentially communicate by displaying information regarding the at least one of the identified conditions of the patient to a person with knowledge of the relationship between each of the plurality of icons and the predetermined position" as recited by amended claim 31. Therefore, Applicants submit that claim 31 is distinguishable over Cain and Richardson and is therefore allowable.

The Examiner rejected claims 9, 10, 13, and 25-27 under 35 U.S.C. 103(a) as being unpatentable over Cain (U.S. Pat. No. 5,720,502) and Richardson (U.S. Pat. No. 6,314,405) in view of Evans (U.S. Pat. No. 5,924,074). Each of the claims rejected in this manner is dependent on a claim that is allowable for at least the reasons described herein. As such, Applicants submit that the rejection of claims 9, 10, 13, and 25-27 should be withdrawn.

The Examiner rejected claims 11 and 12 under 35 U.S.C. 103(a) as being unpatentable over Cain (U.S. Pat. No. 5,720,502) and Richardson (U.S. Pat. No. 6,314,405) in view of Dunn (U.S. Pat. No. 4,656,603). Each of the claims rejected in this manner is dependent on a claim that is allowable for at least the reasons described herein. As such, Applicants submit that the rejection of claims 11 and 12 should be withdrawn.

The Examiner rejected claim 24 under 35 U.S.C. 103(a) as being unpatentable over Cain (U.S. Pat. No. 5,720,502) and Richardson (U.S. Pat. No. 6,314,405) in view of McCrae et al. (U.S. Pat. No. 3,826,237). Claim 24 is dependent on a claim that is allowable for at least the reasons described herein. As such, Applicants submit that the rejection of claim 24 should be withdrawn.

### CONCLUSION

Thus, it is submitted that independent claims 1, 15, 20, and 29 and claims 2-14, 16-19, 22-28, 30, and 31 depending from the independent claims are patentable and distinguishable over the cited art. Each of the dependent claims recites features in combination with features recited

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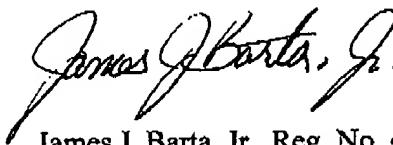
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by an independent claim which combination of features is not taught by any of the cited art, alone or in combination.

**The Applicants wish to expedite prosecution of this application. If the Examiner deems the claims as amended to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the claims in condition for allowance.**

It is felt that a full and complete response has been made to the Office action and, as such, places the application in condition for allowance. Such allowance is hereby respectfully requested.

Respectfully submitted,



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